

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA, for the use of
ARIOSIA & COMPANY, LLC
16 Stenersen Lane, Suite 3A
Hunt Valley, Maryland 21030

Plaintiff

v.

BERKLEY REGIONAL INSURANCE CO.
2111 Wilson Boulevard, Suite 700
Arlington, Virginia 22201

Serve On:

Maryland Insurance Commissioner
200 St. Paul Place, Suite 2700
Baltimore, Maryland 21202

Defendant

* * * * *

COMPLAINT

United States of America, for the use of Ariosa & Company, LLC, Plaintiff, by its attorneys, Jeffrey N. Pritzker and Margolis, Pritzker, Epstein & Blatt, P.A., sues Berkley Regional Insurance Co., Defendant, and as grounds therefor states as follows:

Jurisdiction and Venue

1. This Court has subject matter jurisdiction in this case pursuant to the Miller Act, 40 U.S.C. §3133(b).
2. Venue is proper in this Court pursuant to the Miller Act, 40 U.S.C., §3133(b)(3) in that the construction projects for which the the subcontracts described herein were to be performed are located in this district.

The Parties

3. Ariosa & Company, LLC ("Ariosa"), Plaintiff, is a limited liability company organized and existing under the law of the State of Maryland and is engaged in the business of mechanical contracting in and about the State of Maryland and the District of Columbia.

4. Berkley Regional Insurance Co., ("Berkley Insurance") Defendant, is an insurance company licensed and doing business in the State of Maryland and is engaged in the business of issuing payment and performance bonds for construction projects.

5. G-W Management Services, LLC ("G-W Management Services") is a limited liability company with its principal place of business in Montgomery County, State of Maryland, and regularly does business as a general contractor in the State of Maryland and the District of Columbia.

Factual Allegations

6. The Plaintiff, Ariosa, entered into various contracts with the Defendant, G-W Management Services, for the performance of mechanical contracting services, under the terms of various contracts as set forth in greater detail below. Berkley Insurance, Defendant, acted as the surety on the contracts and construction projects, with regard to assuring the payment of any and all obligations due and owing for labor and materials provided on and to those projects, and for which G-W Management Services has unjustifiably, wrongfully and willfully refused to pay.

7. Ariosa entered into a sub-contract agreement, Contract N40080-10-D-0498-0011 (Building #8, National Naval Medical Center, Bethesda, Maryland) with Defendant,

G-W Management Services, on or about July 20, 2011 (see Exhibit #1 attached hereto and incorporated by reference herein).

8. Ariosa provided all labor and materials, including extras and change orders, under the terms of the aforementioned contract.

9. Ariosa performed all of the aforementioned services in a safe, careful and workmanlike manner, and completed all contractual obligations for the subject project.

10. Despite repeated requests for payment, G-W Management Services has failed and refused to pay the balance due and owing under the terms of the contract, which balance remains due and owing in the sum of Seventy-Two Thousand Eight Hundred Ninety-Eight Dollars and Forty Cents (\$72,898.40).

11. Ariosa entered into a sub-contract agreement, Contract N40080-10-D-0498-0012 (Building #9, National Naval Medical Center, Bethesda, Maryland) with Defendant, G-W Management Services, on or about July 16, 2011(see Exhibit #2 attached hereto and incorporated by reference herein).

12. Ariosa provided all labor and materials, including extras and change orders, under the terms of the aforementioned contract.

13. Ariosa performed all of the aforementioned services in a safe, careful and workmanlike manner, and completed all contractual obligations for the subject project.

14. Despite repeated requests for payment, G-W Management Services has failed and refused to pay the balance due and owing under the terms of the contract, which balance remains due and owing in the sum of Fifty-Eight Thousand Three Hundred Twenty-Nine Dollars and Thirty Cents (\$58,329.30).

15. Ariosa entered into a sub-contract agreement, Contract SB1341-10-CN-0059

(National Institute of Standards and Technology building, Gaithersburg, Maryland) with Defendant, G-W Management Services, on or about September 7, 2010 (see Exhibit #3 attached hereto and incorporated by reference herein).

16. Ariosa provided all labor and materials, including extras and change orders, under the terms of the aforementioned contract.

17. Ariosa performed all of the aforementioned services in a safe, careful and workmanlike manner, and completed all contractual obligations for the subject project.

18. Despite repeated requests for payment, G-W Management Services has failed and refused to pay the balance due and owing under the terms of the contract, which balance remains due and owing in the sum of Fifty-Nine Thousand One Hundred Fifty-Two Dollars (\$59,152.00).

19. A payment bond issued by the Defendant, Berkley Insurance, surety and G-W Management Services principal, Bond No.: 0145620 was issued for the aforementioned construction projects. A sample of the form of payment bond issued is attached hereto as Exhibit #4.

Count One
(Claim against Surety on Payment Bond)

20. Ariosa hereby incorporates by reference its allegations contained in Paragraphs Nos. 1 through 19 as if more fully set forth herein.

21. Berkley Insurance issued payment and performance bonds, guaranteeing and assuring sub-contractors, such as Ariosa, that all monies rightfully due and owing Ariosa under the terms of the aforementioned contracts would be paid by G-W Management Services, and in the event monies due and owing under the terms of those

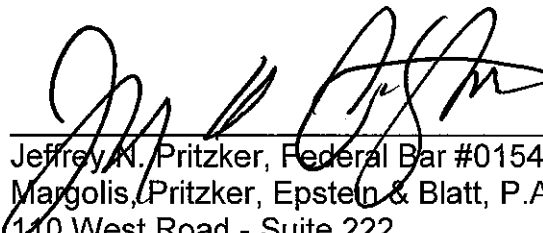
contracts were not paid, Berkley Insurance, Defendant, as a surety would make payment directly to Ariosa in amounts due and owing.

22. Ariosa rightfully relied upon said Defendant as the bonding company for these projects.

23. Ariosa has made demand for payment, arising out of the failure of the G-W Management Services to make payment of all monies rightfully due and owing, but Berkley Insurance, Defendant, as a surety, has failed and refused to make payment as required under the terms of its bond.

24. Ariosa has complied with all conditions precedent to recovery on the payment bond.

WHEREFORE, Plaintiff claims One Hundred Ninety Thousand Three Hundred Seventy-Nine Dollars and Seventy Cents (\$190,379.70), pre-judgment interest, post-judgment interest, attorney's fees and costs against Berkley Regional Insurance Company.



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